

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF

**

THE HORNED DORSET PRIMAVERA INC **

CASE NO. 15-03837

DEBTOR IN POSSESSION

**

**APPLICATION FOR APPOINTMENT OF SPECIAL ATTORNEY FOR THE ESTATE
TO THE HONORABLE COURT:**

COMES NOW, Debtors in Possession above mentioned, applicant in this matter for employment of Bennazar, Garcia & Milian Law Firm as special counsel for this bankruptcy estate and through its undersigned counsel very respectfully states as follows:

1. The above captioned Chapter 11 petition was filed on May 22 , 2015

2. As of the date of the filing of the abovementioned petition for relief, several complaints were pending in State Court, in which the Debtor in Possession asserted affirmative defenses against the Plaintiff's claims. The litigation in these cases were being handled as of the date of the petition by Counsel Antonio Juan Bennazar of the Law Firm aforementioned.

3. After due deliberation the Debtor has determined that the prosecution of said valid claims that would benefit the Estate and thus debtor has decided to retain counsel, Antonio Juan Bennazar Esq., partner in Bennazar, Garcia & Millan CSP, to appear on its behalf and continue the litigation before the State Court Aguada Branch. Said representation entails:

a) To prepare the necessary motions, answer, order, reports, memoranda of law or any other legal document related to the prosecution of the claim for damages before the State Court.

b) Appear before the State Court at any and all hearings, or any other court in which the debtor asserts a claim interest or defense directly or indirectly related to the issues pending before the State Court.

4. Additionally, Special Counsel has represented the Debtor in Possession for the past thirty years, thus is knowledgeable of all matters concerning the sale of the Property to Inmobiliaria T & M Inc., the granting of the Right of Usufruct over said property and all

5. Due to the familiarity of the issues concerning the pending litigation the Debtor in Possession is requesting authorization to employ the Law Firm of Bennazar, Garcia & Milian as special counsel, Debtor understands the employment of Counsel Antonino Juan Bennazar is in the best interest of the Estate.

6. As stated in Special counsel's letter, any outstanding fees owed by the Debtor in Possession will be waived by the Special Counsel.

7. The terms of the employment and the compensation of said attorneys agreed to in the application and accepted by the trustee are as follows. The work performed as detailed in paragraph 2 above will be paid at actual costs, at the following hourly rates: Partners at \$250.00 per hour, associate lawyers at \$125.00 per hour and paralegals at \$50.00 per hour. Also, for these services the Law firm will charge actual and necessary expenses incurred in the prosecution of these matters.

8. Attached hereto is a Certificate of Proposed Attorney filed by Antonio Juan Bennazar Zequiera (Exhibit B) as required by the Local Rules of Bankruptcy Procedure, Copy of the Law Firm's Profile is attached as Exhibit C)

WHEREFORE, the above-mentioned consolidated Debtor in Possession, requests that the Court authorizes him to employ as special counsel the Law Firm of Bennazar, Garcia & Milian PSC to represent and prosecute debtor's cause of action for damages pending before the State Court at the rate set forth herein, subject to further review and order of this Court.

RESPECTFULLY SUBMITTED

I HEREBY CERTIFY: That on this same date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the participants appearing in said record.

I HEREBY CERTIFY that on this same date, copies of the foregoing document were mailed without exhibit to all parties in interest and the twenty largest creditors.

NOTICE

Within **FOURTEEN (14) days** after service as evidenced by the certification, and an additional three days (3) pursuant to Fed. R Bank P 9006(f) **if you were served by mail**, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this motion with the Clerk's office of the US Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the motion will be deemed unopposed and may be granted unless (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

In San Juan, Puerto Rico, this 10th day of August 2015

S/ ISABEL M. FULLANA

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S/ Wilhelm Sack

General Manager
The Horned Dorset Primavera Inc.

BENNAZAR, GARCÍA & MILIÁN, C.S.P.

ABOGADOS Y NOTARIOS

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Héctor M. Mayol Kauffmann

July 17, 2015

Ms. Isabel M. Fullana, Esq.
García-Arregui & Fullana
P.O. Box 11579
Fernandez Juncos Station
San Juan, Puerto Rico 00910

RE: The Horned Dorset Primavera, Inc.
Case No. 15-03837-11
Chapter 11 Reorganization
Our File No. 7-3285

Dear Attorney Fullana:

The undersigned has been general outside counsel for The Horned Dorset Primavera, Inc., (HDP) literally since it was organized more than 30 years ago, back in 1985. Throughout the last three decades, we have constantly provided our professional services to HDP in legal counseling, litigation, notarial services and routine legal matters.

Following the filing of the above referenced Chapter 11 petition in bankruptcy, HDP has requested that we continue to provide them with legal services and representation in general legal matters outside of the bankruptcy proceedings, such as day to day consultations and litigation in court of legal matters arising post-petition, plus others, without implying a limitation, that constitute claims of HDP against persons and entities who owe money to HDP, such as the individual owners of the condominium known as "The Villas at The Horned Dorset"; the owners of the individual units known as "The Residences at HDP"; unpaid promissory notes and other obligations of Inmobiliaria T&C, Inc. and Mr. José A. Bechara Fagundo, as well as post-petition employee claims or disputes with suppliers and guests that occasionally arise as a result of the day to day operation of the hotel.

Ms. Isabel M. Fullana
July 17, 2015
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There is also one very important litigation matter in which our firm was representing the hotel prior to the filing of the bankruptcy petition, and HDP wishes to continue to retain our services in its representation with respect to such dispute. It is the claim made by the PR Tourism Company against the hotel for unpaid hotel room taxes. As debtor in possession, HDP feels that it would be in its best interest if our firm can continue to represent them in this controversy with the Tourism Company, whether as an adversary proceeding within the bankruptcy case, or if the case is remanded to the Court of First Instance of Puerto Rico.

When the bankruptcy petition was filed, HDP had an outstanding obligation to our firm for legal services and representation provided prior to the filing of the petition, which were included with the petition's schedules. In order to be in a position to be retained by HDP to provide post-petition legal services, our firm waives its right to participate in the Chapter 11 distribution. Enclosed please find an *Attorney's Verified Statement* confirming the above, and a recent profile of our firm.

Cordially,

BENNAZAR, GARCIA & MILIÁN, CSP



By: A. J. Bennazar Zequeira, Director

mr

Enclosures

c Mr. Wilhelm Sack
 Ms. Maureen Quevedo

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In Re:

**THE HORNED DORSET
PRIMAVERA, INC.**

Debtor in possession

CHAPTER 11

CASE NO. 15-03837-ESL11

ATTORNEY'S VERIFIED STATEMENT

ANTONIO JUAN BENNAZAR ZEQUEIRA, managing partner (Director) in BENNAZAR, GARCIA & MILIAN, CSP do hereby certify under penalty of perjury that to the best of knowledge and belief the following is true and correct:

- (1) I am an attorney-at-law in good standing, fully admitted to practice as such in the Commonwealth of Puerto Rico by the Supreme Court of Puerto Rico, the United States District Court for the District of Puerto Rico and the US Circuit Court of Appeals for the First Circuit.
- (2) Debtor has requested the services of our firm to act as special counsel in its defense and representation in all matters and controversies relating to the PR Tourism Company, to dispute the amounts being claimed for room taxes, and also to prosecute claims against persons and entities that owe monies to the debtor, such as, without implying a limitation, the individual owners of the units of the horizontal property regime condominium known as "The Villas at Horned Dorset"; the individual owners of units known as "The Residences at Horned Dorset"; unpaid contractual obligations of Inmobiliaria T&C and/or Mr. José A. Bechara Fagundo; as well as routine post-petition legal matters that develop from time to time, such as employee claims or disputes with suppliers or guests.
- (3) Because of the familiarity of our firm with the day to day business of debtor in possession and also our historical perspective of the negotiations that led to the contractual obligations that may be the object of judicial claim by debtor in possession against third parties, HDP has selected and requested that our law firm provide such services.

- (4) The professional services to be rendered will include:
 - a) To prepare for, or on behalf of the debtor, the necessary pleadings, motions, reports, memoranda of law, legal opinions or any other legal document necessary to advise and represent Debtor's interests in such cases.
 - b) Appear before the USDC-PR, the US Court of Appeals or the Courts of Puerto Rico, where debtor shall assert claims, interests or defenses directly or indirectly related to this bankruptcy case.
- (5) To my best knowledge and information, neither the undersigned or any member or associate of our law firm, nor any employee have any family relation with any of the principals of the debtor, nor with the United States Trustee assigned to this case.
- (6) Our law firm holds an account receivable with the Estate related to services provided pre-petition, and hereby formally waves its right to participate in the Chapter 11 distribution of payments to be made to satisfy pre-petition obligations of debtor.
- (7) Our law firm has its offices for the practice of the legal profession located at Union Plaza, PH-A, 416 Ponce de Leon Avenue, Hato Rey, San Juan, Puerto Rico. Postal Address: P.O. Box 194000 No. 212, San Juan, Puerto Rico 00919-4000. Tel. 787-754-9191; Fax. 787-764-3101; Email: bgm@bennazar.org; ajb@bennazar.org.
- (8) The terms of compensation agreed to with Debtor are as follows:

Partners of the firm at the rate of \$ 250.00 per hour;
Associates at a rate of \$125 .00 per hour;
Paralegals or Law Clerks at a rate of \$ 50.00 per hour.
Any costs and expenses shall be paid for by the client (Debtor).
- (9) Any compensation to be received is subject to the Court's approval upon proper application and notice thereof. Pursuant to the provisions of 11 USCA 327(a) no notice of this application need to be given and no hearing need to be held unless the Court should otherwise direct.
- (10) I will amend this statement immediately upon learning that; a) any of the representations made herein are incorrect or incomplete, or b) there is any material change of circumstances relating thereto.
- (11) I have reviewed the provisions of LBR 2016-1

- (12) A copy of this application has been transmitted to the US Trustee, pursuant to local Rules of Bankruptcy procedure 2014-1(d)
- (13) This verified statement is provided in compliance with section 327 (a) of the Bankruptcy Code and Local Rule of Bankruptcy Procedures 2014-1, for the purposes described in debtor's application for employment of attorney, with compensation to be allowed upon prior application notice and hearing there on if necessary.
- (14) There are no agreements on the part of the undersigned or the other attorneys of our firm for the sharing with third parties of any compensation or reimbursement received or to be received under 11 USCA §330(a) and 503 (a)(2), or otherwise in connection with this case, nor will we share any such compensation or reimbursement by another person under such sections.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 17th day of July 2015.

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S/A. J. BENNAZAR-ZEQUEIRA
A. J. BENNAZAR-ZEQUEIRA
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FIRM PROFILE

A. J. BENNAZAR-ZEQUEIRA, received his Bachelor of Arts degree from Fordham University in New York, and then graduated *cum laude* from the University of Puerto Rico School of Law, in 1974 as *Juris Doctor*. He served as law clerk to associate justice Angel M. Martin of the Supreme Court of Puerto Rico during 1974 and 75. Since late 1975 until 1979, he worked as a litigation attorney in the Hato Rey firm of O'Neill & Borges, representing corporate clients before the Courts of Puerto Rico and the U.S. District Court. Mr. Bennazar was admitted to the notarial practice in 1976, and in 1979 to the U.S. Circuit Court of Appeals for the First Circuit. He and the other attorneys in the firm regularly take cases before the Federal and Commonwealth Courts, as well as before regulatory and administrative agencies of the U. S. and Puerto Rico Governments.

Mr. Bennazar is a former President of the Puerto Rico Civil Rights Commission and is also active in several professional organizations, such as the Puerto Rico Bar Association, the Inter-American Bar Association (FIA/IABA) of which he was President 99-00; the *International Legal Assistance Consortium* (ILAC), Estocolmo, Suecia; the *Unión Internacional del Notariado Latino*; the International Bar Association (IBA); the *Unión Iberoamericana de Abogados* (UIBA) and The Global Executive Network (President 96-98). At present, he is the President of the *Fundación del Colegio de Abogados de PR* (PR Bar Foundation). During his more than 35 years of practice, he has presided innumerable committees of professional organizations in Puerto Rico and internationally, and has lectured on different topics concerning legal matters and the legal profession in several countries.

In late 1979, a former director of the Puerto Rico Office of Industrial Tax Exemption together with Atty. Rafael Alonso Alonso, a well known jurist, past president of the Puerto Rico Planning Board and currently a retired associate justice of the Puerto Rico Supreme Court, founded a firm which Mr. Bennazar joined a few days later. From the outset, the firm developed a general commercial practice, engaging in civil and commercial litigation, employment litigation, banking law, notarial work and real estate, industrial tax exemption, land use and zoning, urban development and commercial arbitration, representing principally corporate and business clients, insurance companies and financial institutions.

In February 1985, Atty. Delia Castillo de Colorado joined the firm as a partner. When Mr. Alonso was appointed to the Supreme Court, the firm changed its name to *Gonzalez, Bennazar & Colorado*. In November 1995, Mr. Bennazar and all but two of the attorneys then working at the firm, founded a new entity under the name of *Bufete Bennazar, C.S.P.*, which has continued to serve essentially the same clientele. In July 2005, attorneys José R. García Pérez and Nyvia E. Milián Falero became partners and the firm changed its name to *Bennazar, García & Milián, C.S.P.*

Throughout all of this time, the attorneys that work at BENNAZAR, GARCÍA & MILIÁN, C.S.P. have developed ample experience representing commercial enterprises, financial institutions, banks, insurance companies, developers, manufacturers, importers and exporters, hotels, advertising and public relations agencies, distributors, retail chain operations, government agencies and others. The firm has successfully handled mergers and acquisitions, corporate reorganizations as well as tax incentive grants. The firm's attorneys have substantial experience in civil litigation in general, including labor litigation (representing the employer), contracts, commercial arbitration, distribution matters, trademarks and intellectual properties, international business transactions, torts, bankruptcies and estates, as well as notarial work related to commercial financing and real estate transactions.

At its modern facilities located in Hato Rey, at the heart of Puerto Rico's financial center, the firm offers the services of legal professionals and highly competent support personnel who serve an ample scope of clients from different parts of the World, with a solid reputation in the legal and financial community, at home and abroad.

Representative Clients

American Express Travel Related Services Co., Inc.; American Express Centurion Bank; Mars, Inc. (McLean, Virginia); M & M Mars; Merrill Lynch; TriSalem, Ltd. (Venezuela); Cervecería Cuahutémoc Moctezuma SA de CV (Monterrey, México); F.D.I.C. (Washington, D.C.); Cargill, Inc.; The Boeing Company (Seattle); CSA Architects & Engineers (San Juan-Miami); Global Aerospace (formerly AAU, N.J.); The Horned Dorset Primavera Hotel (Rincón, P.R.); P.R. Aqueducts and Sewers Authority; Liberty Mutual Insurance Co.; Liberty Bond Services (Pennsylvania); First Data Corp.; Western Union (Colorado); Triple S-Propiedad (PR); Isuzu Motors, Ltd. (Japan); Isuzu Motors America, Inc. (California); Samsung (Panamá); Tropical Cheese Industries, Inc. (N.J.); Puerto Rico Pharmaceuticals, Inc.; Recetas x Menos, Inc.